CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 208

October 29, 1957

DEPRECIATION: DECLINING BALANCE METHOD

Syllabus:

Declining balance depreciation, limited to 150% of the straight line method, may be taken without this Board's prior consent on (1) assets acquired after December 31, 1954 and (2) those assets subject to declining balance method under the 1939 Internal Revenue Code.

Proposed Regulation 24349(k) provides, in effect, that the policy of this Board to allow the use of any method of depreciation approved under the 1939 Internal Revenue Code will be continued under the 1955 revisions of the Personal Income Tax Law and Bank and Corporation Tax Law. One such method is the declining balance method, using a rate not in excess of 150% of the applicable straight line rate. For a description of the circumstances under which that method could be used under the 1939 Internal Revenue Code, see Rev. Rul. 57-352, I.R.B. 1957-31, 9. The declining balance method, limited to 150% of the straight line rate may also be used, for state tax purposes, for any assets acquired after December 31, 1954, provided the taxpayer has not already commenced to depreciate the asset under the straight line method. If the declining balance method is allowable as noted above, the taxpayer may adopt such method without securing the prior consent of this Board. No asset which has been subjected to straight line depreciation for tax purposes may be changed over to the declining balance method without securing the prior consent of this Board because such a change constitutes a change in methods of accounting.

Where a taxpayer has claimed excessive depreciation as to an asset to which the declining balance method could have been applied without securing this Board's consent, this Board will disallow only that amount of the depreciation claimed which exceeds 150% of the straight-line rate if the taxpayer requests that the declining balance method be used. Taxpayers are hereby informed that they will not be allowed to change to straight line depreciation without this Board's consent and this fact should be considered by them in deciding whether to use the declining balance method.

If accelerated depreciation is taken on an asset which does not qualify under proposed Regulation 24349(k) or Revenue Ruling 57-352 all depreciation in excess of straight line depreciation must be disallowed because the change in accounting method was without prior consent in a situation which requires such consent.